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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/563,422

01/05/2006

Per Jacobsen

IPB.021

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12/08/2008

MEREK, BLACKMON & VOORHEES, LLC
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EXAMINER

VESRA, DINESH K

ART UNIT

PAPER NUMBER

3633

MAIL DATE

DELIVERY MODE

12/08/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/563,422	JACOBSEN, PER	
	Examiner	Art Unit	
	Dinesh Vesra	3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 1-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 18-35 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/5/2006, 3/31/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 24-28 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 8/28/2008.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the means for indicating the ventilating position (Claim 30) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

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and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Regarding claim 23, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

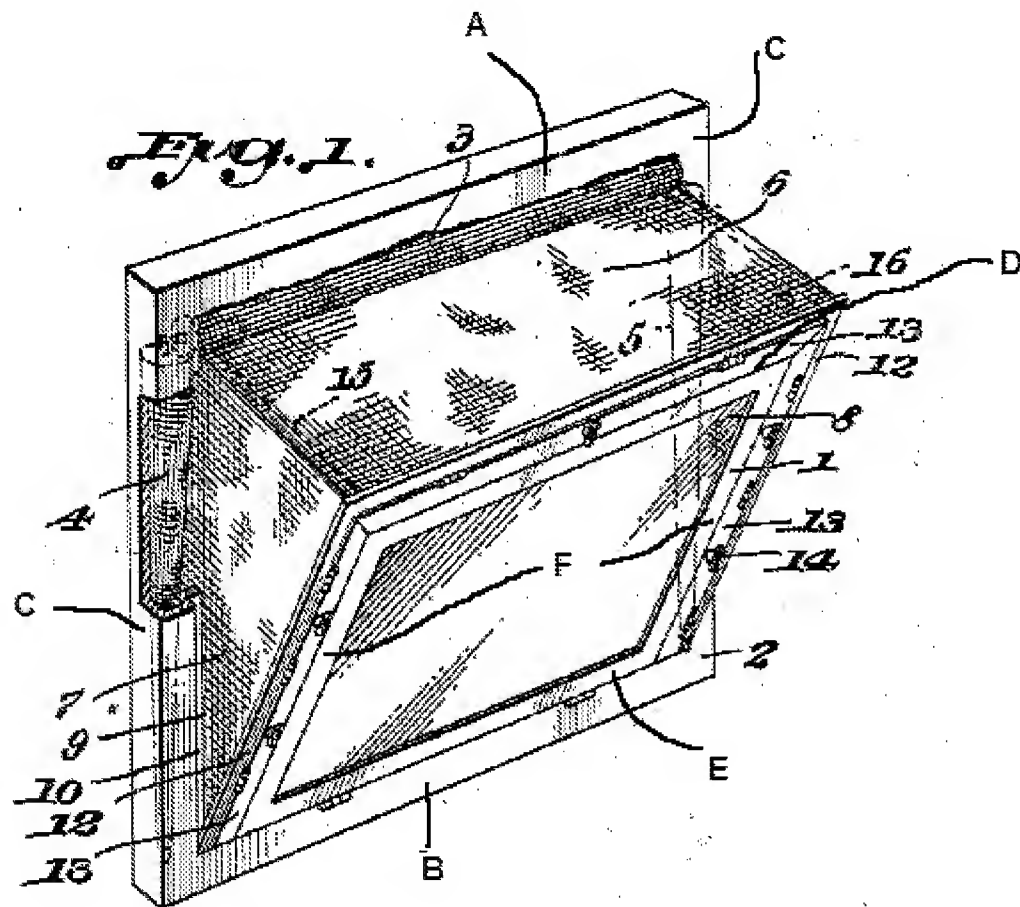
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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7. **Claims 18, 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Persson (US Patent 2,311,413).** Persson discloses a window (see Fig. 1 below) comprising a frame (2) having a top member (A), a bottom member (B) and two side members (C) defining a frame plane; a sash (1) having a top member (D), a bottom member (E) and two side members (F) defining a sash plane; a screening arrangement (7); the sash being connected to the frame by means of at least one hinge (Column 1, lines 58-60) connection to provide a hinge axis substantially parallel with the frame top member and the sash top member, such that the sash may be moved from a closed position to a ventilating position, in which ventilating position the sash plane forms an angle within a limited angle range with the frame plane to provide at least one ventilating Aperture, said screening arrangement covering said at least one ventilating aperture at least partly in the ventilating position; said screening arrangement comprising at least one screening element (7) which in closed position of the window, is arranged in an inactive position at the interface (12 – Fig. 2) between frame and sash, and in the ventilating position spans the ventilating aperture between the frame bottom member and the sash bottom member, and/or between the frame top member (A) and the sash top member (D), and that the at least one screening element is connected with the sash or frame top or bottom member and is in releasable engagement (13) with the corresponding frame or sash member within said limited angle range, wherein said at least one screening element is provided exclusively at the top and/or bottom member of the sash and the frame (as shown in Fig. 1 below); wherein the at least one screening element of the screening arrangement is adapted to be moved automatically from an

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inactive position corresponding to the closed position of the window to an active position corresponding to the ventilating position, and from the active position to the inactive position when the window is brought from its ventilating position to its closed position (Column 1, lines 16 - 20); wherein the screening arrangement further comprises interface screening means arranged at the interface between the screening element and the sash side members (F).



Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **As best understood, claims 20-23 and 29 are rejected under 35 U.S.C.**

103(a) as being unpatentable over Persson in view of MacDonald (US Patent

2,093,314). Persson discloses the window as set forth above, further comprising

wherein the flap is preloaded towards the active position of the screening element by

means of a tensioning element such as a coil spring (the spring loaded rollers (3, 4, and

5), but does not disclose wherein the screening element is adapted to be moved

automatically from an active position corresponding to the ventilating position to an

inactive position when the window is brought past its ventilating position to amore titled

position of the sash, wherein the screening arrangement includes at least one screening

element formed as a flap connected with the top or bottom member of the frame or the

sash by means of a hinge, wherein the flap is adapted to hang freely under the

influence of gravity. MacDonald discloses a window wherein the screening element is

adapted to be moved automatically from an active position corresponding to the

ventilating position to an inactive position when the window is brought past its ventilating

position to a more titled position of the sash (sash is tilted past the position shown in

Fig. 1, the bottom screen will hang freely as it does in Fig. 2), wherein the screening

arrangement includes at least one screening element formed as a flap (5) connected

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with the top or bottom member of the frame or the sash (2) by means of a hinge (8), wherein the flap is adapted to hang freely under the influence of gravity (Fig. 2). At the time of the invention, it would have been obvious to one of ordinary skill in the art to provide the window of Persson with a hinged flap that automatically released if moved past the ventilating position in view of the teachings of MacDonald. The motivation for doing so would be to allow more circulation to enter through the window or to possibly use the window as an emergency exit.

Regarding claim 29, Persson discloses the window as set forth above, but does not disclose wherein each of the top and bottom members of the frame and/or sash is provided with a chamfer. MacDonald discloses that the bottom member of the frame (9) is provided with a chamfer (top surface of 9). At the time of the invention it would have been obvious to provide the top and bottom of the window frame of Persson (Fig. 3) with a chamfer in view of the teachings of MacDonald. It would have been considered further obvious to one of ordinary skill in the art, at the time the invention was made, to have the chamfer at the top and bottom of the frame, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. The motivation for doing so would be to allow the sash to more easily fit into the frame, as well as to enlarge the size of the ventilation opening, allowing for more air circulation.

10. **Claims 30 - 34 rejected under 35 U.S.C. 103(a) as being unpatentable over Persson in view of Camara (US Patent 4,969,291).** Persson discloses the window as set forth above, but does not disclose a means for indicating a ventilating position, or a

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sealing means between the sash and frame side members. Regarding claim 30, as best understood, Camara discloses a means for indicating the ventilating position (via rollers 18 in tracks 21, Column 2 lines 63-68). At the time of the invention it would have been obvious to a person of ordinary skill in the art to provide the window of Persson with a means for indicating the ventilating position in view of the teachings of Camara. The motivation for doing so would be to provide a manner in which to tell how much the window could be opened without going past the ventilating position.

With regards to claims 31-34, Camara discloses wherein sealing means (placed in groove 16 – Fig. 2) at each of the side members of the frame and sash, wherein the sealing means comprise a sliding seal or a brush element (Column 2, lines 43 – 47 indicate that any suitable weather seal known in the art may be used, such as a sliding seal or a brush element), wherein the sealing means are arranged to seal any gap between overlapping side members of frame and sash in the area between the hinge axis and the screening arrangement (the groove 16, runs all the way from the window sash opening to the hinge as shown in Fig. 2). At the time of the invention it would have been obvious to one of ordinary skill in the art to provide the window of Persson with a sealing means in view of the teachings of Camara. The motivation for doing so would be to prevent insects from entering, as well as to provide better weather insulation when the window is closed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinesh Vesra whose telephone number is (571) 270-5221. The examiner can normally be reached on Monday - Thursday 9:00 a.m. - 7:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dinesh Vesra/
Examiner, Art Unit 3633

/Brian E. Glessner/
Supervisory Patent Examiner, Art Unit 3633